H.R.44

IN THE SENATE OF THE UNITED STATES

February 24, 2009

Received; read twice and referred to the Committee on Energy and Natural Resources

March 5, 2009

Committee discharged; referred to the Committee on the Judiciary

AN ACT

To implement the recommendations of the Guam War Claims Review Commission.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,
- 3 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.
- 4 (a) Short Title.—This Act may be cited as the
- 5 "Guam World War II Loyalty Recognition Act".
- 6 (b) Table of Contents.—The table of contents of
- 7 this Act is as follows:
 - Sec. 1. Short title; table of contents.
 - Sec. 2. Recognition of the suffering and loyalty of the residents of Guam.
 - Sec. 3. Payments for Guam World War II claims.
 - Sec. 4. Adjudication.
 - Sec. 5. Grants program to memorialize the occupation of Guam during World War II.
 - Sec. 6. Authorization of appropriations.

SEC. 2. RECOGNITION OF THE SUFFERING AND LOYALTY

- 2 OF THE RESIDENTS OF GUAM.
- 3 (a) Recognition of the Suffering of the Resi-
- 4 DENTS OF GUAM.—The United States recognizes that, as
- 5 described by the Guam War Claims Review Commission,
- 6 the residents of Guam, on account of their United States
- 7 nationality, suffered unspeakable harm as a result of the
- 8 occupation of Guam by Imperial Japanese military forces
- 9 during World War II, by being subjected to death, rape,
- 10 severe personal injury, personal injury, forced labor,
- 11 forced march, or internment.
- 12 (b) Recognition of the Loyalty of the Resi-
- 13 DENTS OF GUAM.—The United States forever will be
- 14 grateful to the residents of Guam for their steadfast loy-
- 15 alty to the United States of America, as demonstrated by
- 16 the countless acts of courage they performed despite the
- 17 threat of death or great bodily harm they faced at the
- 18 hands of the Imperial Japanese military forces that occu-
- 19 pied Guam during World War II.
- 20 SEC. 3. PAYMENTS FOR GUAM WORLD WAR II CLAIMS.
- 21 (a) Payments for Death, Personal Injury,
- 22 Forced Labor, Forced March, and Internment.—
- 23 Subject to section 6(a), after receipt of certification pursu-
- 24 ant to section 4(b)(8) and in accordance with the provi-
- 25 sions of this Act, the Secretary of the Treasury shall make
- 26 payments as follows:

1 (1) Residents injured.—The Secretary shall 2 pay compensable Guam victims who are not de-3 ceased before any payments are made to individuals 4 described in paragraphs (2) and (3) as follows: (A) If the victim has suffered an injury de-6 scribed in subsection (c)(2)(A), \$15,000. 7 (B) If the victim is not described in sub-8 paragraph (A) but has suffered an injury de-9 scribed in subsection (c)(2)(B), \$12,000. 10 (C) If the victim is not described in sub-11 paragraph (A) or (B) but has suffered an in-12 jury described in subsection (c)(2)(C), \$10,000. 13 (2) Survivors of residents who died in 14 WAR.—In the case of a compensable Guam decedent, 15 the Secretary shall pay \$25,000 for distribution to 16 eligible survivors of the decedent as specified in sub-17 section (b). The Secretary shall make payments 18 under this paragraph after payments are made 19 under paragraph (1) and before payments are made 20 under paragraph (3). 21 (3) Survivors of Deceased injured resi-22 DENTS.—In the case of a compensable Guam victim 23 who is deceased, the Secretary shall pay \$7,000 for

distribution to eligible survivors of the victim as

specified in subsection (b). The Secretary shall make

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- payments under this paragraph after payments are made under paragraphs (1) and (2).
- 3 (b) Distribution of Survivor Payments.—Pay-
- 4 ments under paragraph (2) or (3) of subsection (a) to eli-
- 5 gible survivors of an individual who is a compensable
- 6 Guam decedent or a compensable Guam victim who is de-
- 7 ceased shall be made as follows:

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- 8 (1) If there is living a spouse of the individual, 9 but no child of the individual, all of the payment 10 shall be made to such spouse.
 - (2) If there is living a spouse of the individual and one or more children of the individual, one-half of the payment shall be made to the spouse and the other half to the child (or to the children in equal shares).
 - (3) If there is no living spouse of the individual, but there are one or more children of the individual alive, all of the payment shall be made to such child (or to such children in equal shares).
 - (4) If there is no living spouse or child of the individual but there is a living parent (or parents) of the individual, all of the payment shall be made to the parents (or to the parents in equal shares).
- 24 (5) If there is no such living spouse, child, or parent, no payment shall be made.

(c) Definitions.—For purposes of this Act:

- (1) Compensable Guam decedent" means an individual determined under section 4(a)(1) to have been a resident of Guam who died or was killed as a result of the attack and occupation of Guam by Imperial Japanese military forces during World War II, or incident to the liberation of Guam by United States military forces, and whose death would have been compensable under the Guam Meritorious Claims Act of 1945 (Public Law 79–224) if a timely claim had been filed under the terms of such Act.
 - (2) Compensable Guam victim" means an individual determined under section 4(a)(1) to have suffered, as a result of the attack and occupation of Guam by Imperial Japanese military forces during World War II, or incident to the liberation of Guam by United States military forces, any of the following:
 - (A) Rape or severe personal injury (such as loss of a limb, dismemberment, or paralysis).
 - (B) Forced labor or a personal injury not under subparagraph (A) (such as disfigurement, scarring, or burns).

1	(C) Forced march, internment, or hiding
2	to evade internment.
3	(3) Definitions of Severe Personal Inju-
4	RIES AND PERSONAL INJURIES.—The Foreign
5	Claims Settlement Commission shall promulgate reg-
6	ulations to specify injuries that constitute a severe
7	personal injury or a personal injury for purposes of
8	subparagraphs (A) and (B), respectively, of para-
9	graph (2).
10	SEC. 4. ADJUDICATION.
11	(a) Authority of Foreign Claims Settlement
12	Commission.—
13	(1) In General.—The Foreign Claims Settle-
14	ment Commission is authorized to adjudicate claims
15	and determine eligibility for payments under section
16	3.
17	(2) Rules and regulations.—The chairman
18	of the Foreign Claims Settlement Commission shall
19	prescribe such rules and regulations as may be nec-
20	essary to enable it to carry out its functions under
21	this Act. Such rules and regulations shall be pub-
22	lished in the Federal Register.
23	(b) Claims Submitted for Payments.—
24	(1) Submittal of Claim.—For purposes of
25	subsection (a)(1) and subject to paragraph (2), the

- Foreign Claims Settlement Commission may not determine an individual is eligible for a payment under section 3 unless the individual submits to the Commission a claim in such manner and form and containing such information as the Commission specifies.
 - (2) FILING PERIOD FOR CLAIMS AND NOTICE.—
 All claims for a payment under section 3 shall be filed within one year after the Foreign Claims Settlement Commission publishes public notice of the filing period in the Federal Register. The Foreign Claims Settlement Commission shall provide for the notice required under the previous sentence not later than 180 days after the date of the enactment of this Act. In addition, the Commission shall cause to be publicized the public notice of the deadline for filing claims in newspaper, radio, and television media on Guam.
 - (3) ADJUDICATORY DECISIONS.—The decision of the Foreign Claims Settlement Commission on each claim shall be by majority vote, shall be in writing, and shall state the reasons for the approval or denial of the claim. If approved, the decision shall also state the amount of the payment awarded and the distribution, if any, to be made of the payment.

- 1 (4) DEDUCTIONS IN PAYMENT.—The Foreign 2 Claims Settlement Commission shall deduct, from 3 potential payments, amounts previously paid under 4 the Guam Meritorious Claims Act of 1945 (Public 5 Law 79–224).
 - (5) Interest shall be paid on payments awarded by the Foreign Claims Settlement Commission.
 - (6) Remuneration prohibited.—No remuneration on account of representational services rendered on behalf of any claimant in connection with any claim filed with the Foreign Claims Settlement Commission under this Act shall exceed one percent of the total amount paid pursuant to any payment certified under the provisions of this Act on account of such claim. Any agreement to the contrary shall be unlawful and void. Whoever demands or receives, on account of services so rendered, any remuneration in excess of the maximum permitted by this section shall be fined not more than \$5,000 or imprisoned not more than 12 months, or both.
 - (7) APPEALS AND FINALITY.—Objections and appeals of decisions of the Foreign Claims Settlement Commission shall be to the Commission, and upon rehearing, the decision in each claim shall be

- final, and not subject to further review by any courtor agency.
 - (8) CERTIFICATIONS FOR PAYMENT.—After a decision approving a claim becomes final, the chairman of the Foreign Claims Settlement Commission shall certify it to the Secretary of the Treasury for authorization of a payment under section 3.
 - (9) TREATMENT OF AFFIDAVITS.—For purposes of section 3 and subject to paragraph (2), the Foreign Claims Settlement Commission shall treat a claim that is accompanied by an affidavit of an individual that attests to all of the material facts required for establishing eligibility of such individual for payment under such section as establishing a prima facie case of the individual's eligibility for such payment without the need for further documentation, except as the Commission may otherwise require. Such material facts shall include, with respect to a claim under paragraph (2) or (3) of section 3(a), a detailed description of the injury or other circumstance supporting the claim involved, including the level of payment sought.
 - (10) Release of related claims.—Acceptance of payment under section 3 by an individual for a claim related to a compensable Guam decedent or

- a compensable Guam victim shall be in full satisfac-
- 2 tion of all claims related to such decedent or victim,
- 3 respectively, arising under the Guam Meritorious
- 4 Claims Act of 1945 (Public Law 79–224), the imple-
- 5 menting regulations issued by the United States
- 6 Navy pursuant thereto, or this Act.
- 7 (11) Penalty for false claims.—The provi-
- 8 sions of section 1001 of title 18 of the United States
- 9 Code (relating to criminal penalties for false state-
- ments) apply to claims submitted under this sub-
- 11 section.

12 SEC. 5. GRANTS PROGRAM TO MEMORIALIZE THE OCCUPA-

- 13 TION OF GUAM DURING WORLD WAR II.
- (a) ESTABLISHMENT.—Subject to section 6(b) and in
- 15 accordance with this section, the Secretary of the Interior
- 16 shall establish a grants program under which the Sec-
- 17 retary shall award grants for research, educational, and
- 18 media activities that memorialize the events surrounding
- 19 the occupation of Guam during World War II, honor the
- 20 loyalty of the people of Guam during such occupation, or
- 21 both, for purposes of appropriately illuminating and inter-
- 22 preting the causes and circumstances of such occupation
- 23 and other similar occupations during a war.
- 24 (b) Eligibility.—The Secretary of the Interior may
- 25 not award to a person a grant under subsection (a) unless

- 1 such person submits an application to the Secretary for
- 2 such grant, in such time, manner, and form and con-
- 3 taining such information as the Secretary specifies.
- 4 SEC. 6. AUTHORIZATION OF APPROPRIATIONS.
- 5 (a) Guam World War II Claims Payments and
- 6 Adjudication.—For purposes of carrying out sections 3
- 7 and 4, there are authorized to be appropriated
- 8 \$126,000,000, to remain available for obligation until Sep-
- 9 tember 30, 2013, to the Foreign Claims Settlement Com-
- 10 mission. Not more than 5 percent of funds made available
- 11 under this subsection shall be used for administrative
- 12 costs.
- 13 (b) Guam World War II Grants Program.—For
- 14 purposes of carrying out section 5, there are authorized
- 15 to be appropriated \$5,000,000, to remain available for ob-
- 16 ligation until September 30, 2013.

Passed the House of Representatives February 23, 2009.

Attest: LORRAINE C. MILLER,

Clerk.